



# Economic and Social Council

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## Committee on Economic, Social and Cultural Rights

### Forty-fifth session

#### Summary record of the 46th meeting

Held at the Palais Wilson, Geneva, on Thursday, 11 November 2010, at 3 p.m.

*Chairperson:* Mr. Marchán Romero

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*The meeting was called to order at 3.15 p.m.*

### **Meeting with States parties**

1. **The Chairperson** welcomed the representatives of the States parties to the meeting, which was intended to serve as an informal forum where each and every one would be able to speak freely on the three items that he had proposed for discussion: the Optional Protocol to the International Covenant on Economic, Social and Cultural Rights; the backlog of reports awaiting consideration and the request made to the Economic and Social Council for approval to hold two additional sessions; and the Committee's role in the efforts to rationalize and strengthen the treaty-body system.

#### *The Optional Protocol*

2. Since the previous meeting with the States parties in 2007, a landmark event had taken place: the ceremony of the opening for signature of the Optional Protocol. The event represented a historic turning point, as it had confirmed that economic, social and cultural rights enjoyed the same status as all other human rights and had reinforced the principle of the indivisibility and interdependence of all human rights.

3. Noting that, out of the 160 States that were party to the Protocol, only 3 (Ecuador, Mongolia and Spain) had ratified the instrument, he recalled that 10 ratifications were needed for the Protocol to enter into force. With the assistance of the Office of the High Commissioner for Human Rights, the Committee had been tackling the priority task of drawing up draft rules of procedure concerning the Protocol. It was working through the instrument, article by article, and had now reached article 8. The members of the Committee were gratified to see the instrument that they had called for taking shape and, while fully aware of the considerable additional burden that the Optional Protocol represented, they were ready to take on the challenge.

4. **Mr. Texier** said that, considering that the text of the Optional Protocol had been adopted by consensus first in April 2008, subsequently by the Human Rights Council and, ultimately, by the General Assembly, he was surprised at how slow States parties were to ratify the instrument. He urged them to voice any doubts or raise any questions that they might have.

5. **Mr. Riedel** welcomed the representatives of the States parties that had participated actively in the negotiation of the Optional Protocol. The Committee attached great importance to disseminating the instrument at the national level, because individual communications carried more weight than general statements, which were not covered by the media and did not come to the attention of parliamentarians. The communications procedure tended to foster national debate, and ensuring implementation at the national level was one of the main concerns that was raised in the Committee's ongoing dialogue with each State party.

#### *Backlog of reports and the request to the Economic and Social Council for approval to hold two additional sessions*

6. **The Chairperson** outlined the reasons why 31 State party reports were currently awaiting consideration by the Committee: the number of ratifications of the Covenant had increased by more than 50 per cent since the Committee had been created, and States parties submitted their initial reports late. Thus, it would be impossible to consider the reports submitted in 2009, for example, before 2013. As, by that time, the data in the reports would be out of date, the Committee attached particular importance awarded to the lists of issues and the States parties' written replies, which were used to update the information and statistics provided in the reports.

7. The three meetings devoted to the consideration of each State party report (10 reports each year) were needed to ensure a thorough consideration of the situation in each case: multiple topics had to be addressed, and economic, social and cultural rights covered a broad range of topics. The Committee, which did not wish to leave out any of the rights covered by the Covenant, often had great difficulty devoting sufficient time to the consideration of article 15 of the Covenant, which was addressed right at the end of the third meeting. Furthermore, an exhaustive comparison of the facts and figures had to be performed to gauge the progress made by the State party.

8. If the Economic and Social Council approved the Committee's request to hold an additional session in 2011 and another in 2012, between 16 and 18 reports could be considered each year and the backlog would be eliminated. Once the problem had been solved, the Committee would make every effort to ensure that it did not arise again.

9. **Ms. Bonoan-Dandan** said that, 10 years previously, the Committee had obtained approval to hold two extra sessions over a period of two years. As a result, it had been able to clear up its backlog. Today, however, the Committee was no longer in a position to consider the status of the implementation of the Covenant in the absence of a report. If the additional sessions were approved, they would be devoted exclusively to the consideration of reports. That would solve the problem one time only, unless ways were found to manage the submission process better and to increase the number of reports considered at each session. Such solutions would, however, place an additional burden on the secretariat and the translation services. The first solution would thus be to revise the Committee's working methods with a view to reducing the time spent on the consideration of each report without reducing the effectiveness of the procedure. The second would be to devote two days of the fourth week of each session to the consideration of another report. That solution would have fewer financial implications.

10. **Mr. Abdel-Moneim** said that the areas covered by the Covenant were very broad and had continued to expand since the instrument was adopted. Moreover, the ability to protect the rights set out in the Covenant was increasingly subject to the vagaries of circumstances, such as the recent economic, financial and food crises. The only way for the Committee to clear the backlog would be to hold, on an exceptional basis, two extra sessions. The costs could be covered by the Economic and Social Council as the body to which the Committee reported. The States parties needed to: submit their reports on time to avoid creating additional difficulties and running the risk of the information in their reports becoming obsolete; resort, only exceptionally, to the option of submitting several periodic reports in one document; and ensure that the quality and quantity of the information they provided was adequate, because submission of a report that was too brief or that did not contain sufficient data could be deemed to constitute non-compliance with the obligations set out in article 2 of the Covenant.

11. **Ms. Yang** (China) thanked the Committee for giving the States parties the opportunity to express their views and congratulated it on its efforts to follow up on the implementation of the Covenant. The Government of China had consistently stressed the need to devote equal attention to civil, political, economic, social and cultural rights. In June 2010, China had submitted its second periodic report, which had been prepared in collaboration with 30 different government departments and took the viewpoints of 20 non-governmental organizations and academic institutions into account. Her Government had noted that, in certain respects, the Committee's work differed from that of the other treaty bodies and that its workload was heavier. All the committees should make efforts to rationalize their work and to focus on their principal mandate. They should strive to be more efficient so as to reduce both their own workload and that of the States parties.

12. **Ms. Hopkins** (United Kingdom) said that the United Kingdom had taken due note of the information provided during the discussion with the Committee and would reflect on

the matter further. As the context had changed, the Economic and Social Council might find it more difficult to accede to such requests than it had in the past, when the Committee had been granted permission to hold additional sessions. The United Kingdom was concerned by the repeated requests being made by various bodies for additional funding, which did not always resolve the underlying difficulties or lead to any in-depth analysis of how resources were managed. Although it was well aware of all the problems that the treaty bodies faced, the United Kingdom could not support the requests for additional resources. She expressed appreciation to the Committee for its pursuit of effective solutions and encouraged it to intensify its efforts with a view to rationalizing resource utilization by, for example increasing the number of reports considered at each session and reassessing the Committee's working methods.

13. **Mr. Gulnov** (Russian Federation) thanked Mr. Abdel-Moneim for drawing attention to the fact that reports needed to contain a sufficient volume of information. It was a point which contradicted the secretariat's instructions that reports must be no longer than 40 pages. Even though having the reports translated sometimes posed a problem, imposing a strict limit on volume would be counterproductive.

14. **Mr. Nagoshi** (Japan), noting the Committee's request to hold additional sessions, said that a favourable decision would have financial implications for the United Nations. Additional sessions could only be arranged if the secretariat, the Committee and the States parties communicated effectively. Now, more than ever, the best possible use must be made of existing resources, and the Committee's work therefore needed to be rationalized.

15. **Mr. Al-Maghafi** (Yemen) said that the delegation of Yemen understood the Committee's difficulties and would like appropriate solutions to be found, particularly with regard to the lack of resources. It was unfortunate that the reports were not translated into all the working languages of the United Nations on time, as that hampered effective dialogue with experts and other stakeholders.

16. **The Chairperson** said that he was well aware that financial issues were the crux of the problem. With a view to reducing costs, the Committee had relinquished its rights concerning the use of its five working languages, thereby breaching its own rules of procedure. He assured all the States parties that the Committee was constantly seeking to improve its working methods.

17. **Mr. Feyder** (Luxembourg) drew attention to recent developments that underscored the growing importance attached to the Committee's work by the international community. At the United Nations summit on the Millennium Development Goals held in New York in September 2010, the Heads of State and Government had referred to certain worrisome situations that had a direct bearing on economic, social and cultural rights: 350,000 women died in childbirth every year, and a billion people in the world still suffered from malnutrition. It was noteworthy, however, that, as the High Commissioner for Human Rights had pointed out at the most recent session of the Human Rights Council, the declaration adopted at that summit repeatedly emphasized the need to respect all human rights, including economic, social and cultural rights. For the first time, in September 2010, the Human Rights Council had adopted a resolution on human rights and maternal mortality and a resolution on access to water.

18. All stakeholders today agreed on the need to promote the enforceability of all human rights, including economic, social and cultural rights, and that the signing of the Optional Protocol was an important step in that direction. Although it was sometimes difficult to adapt administrative procedures and ministerial structures to take account of changing circumstances, as demonstrated by the time taken to draft the Optional Protocol, progress was being made in several countries, such as South Africa and India, where the link between the right to life and the right to food was acknowledged. The delegation of

Luxembourg attached considerable importance to the Committee's work and to the need to help the Committee fulfil its mandate.

19. **The Chairperson** said that progress had also been made regarding the consideration given to the rights contained in the Covenant following the adoption of the Committee's new general comments on subjects such as the right to water and as a result of the Committee's work on new areas relating to economic and social rights, particularly sexual and reproductive health, sex education, the environment and living standards. On the whole, the Committee strove to ensure that its dialogue with the States parties took account of the evolving situation in human society. It intended to adopt a declaration on the fundamental right to sanitation with the aim of affording even the poorest of the poor the right to live in decent conditions, as well as a declaration on the responsibility of transnational corporations with regard to human rights.

20. **Mr. Sadi** said that he agreed it was necessary to take account of budget constraints and to rationalize work. Given the efforts made by the States parties to provide detailed information on highly complex matters, the Committee should not, however, rush through the reports and risk compromising the quality of its concluding observations, to the detriment of the States parties. The Committee already reached conclusions on the situation in a State party after nine hours of meetings to consider a report, when a court would take far longer to rule on a simple robbery case, for example. As to the Optional Protocol, 35 countries had already signed the instrument, and 10 were expected to have ratified it shortly. It was hoped that many others would follow suit.

21. **Mr. Abdel-Moneim** said that he had taken note of the budget constraints that had been mentioned, but he took the view that two extra sessions would not place an excessive burden on the United Nations budget. Moreover, rationalization efforts should target the work not just of the Committee but of the Organization as a whole. As to the issue, raised by the representative of the Russian Federation concerning the length of State party reports, he could not remember the Committee deciding to impose a limit. He was against such limits and would welcome clarification from the secretariat.

22. **The Chairperson** said that there had not been a Committee decision, but a recommendation had been adopted at an inter-committee meeting on standardizing the working methods of all the treaty bodies.

23. **Mr. Atangana**, speaking on the subject of translation, pointed out that it was not just the periodic reports that had to be translated, but a whole series of related working documents, such as country profiles, lists of issues and corresponding written replies. All those documents were necessary for the work of the Committee and the dialogue with the States parties. At the current session, too few documents had been translated into the different working languages. The fact that certain lists of issues and Government replies had not been translated had meant that the Committee had lost time. The States parties should pay heed to the Committee's complaints on the matter.

24. **Ms. Barahona Riera** said that the Committee's work took into account the fact that economic, social and cultural rights were realized progressively and that their nature evolved (the rights to water, to sexual and reproductive health, to a healthy environment and to food security). Stressing that several Human Rights Council recommendations were based on the Committee's recommendations, in other words, on the objective technical information provided by independent experts after conducting an exhaustive analysis of States parties' reports, she said that the objectivity and thoroughness of the treaty bodies' work should not be sacrificed to budgetary constraints; the quality of the Human Rights Council's conclusions depended on them.

25. **Mr. Texier** recalled that the Committee's work was closely linked to that of other human rights bodies, through the consideration of State party reports, and to the work of the

General Assembly by virtue of the issues of concern that they had in common. The existence of an Optional Protocol that allowed for the examination of violations of individuals' rights would do much to promote the enforceability and understanding of economic, social and cultural rights.

26. The budget allocated to human rights was a tiny fraction of the United Nations total budget, and States could easily consider increasing their contributions very slightly. The Committee should also improve its methods in order to save time, although it should also ensure that it did not sacrifice the quality of the process for considering reports. The process took a considerable amount of time, owing to the large number of topics covered by the Covenant. The problem at the moment, which he urged the States parties to consider, was the huge backlog, for which a temporary solution must be found.

27. **Mr. Gulnov** (Russian Federation) said that he was strongly opposed to limits on the length of reports submitted to the treaty bodies.

28. **Ms. Arnegaard** (Norway) suggested that the guidelines for the preparation of reports should be clarified to prevent overlaps between one committee and another. She expressed interest in the work that the Committee was planning on transnational corporations and the rights covered by the Covenant and asked for more information on the subject.

29. **Mr. Kedzia** said that, while coordination within and among the committees should be improved, the committees must be provided with the support they needed to handle a volume of work that had mushroomed and for which the resources provided in the past were patently inadequate. It was still too soon to present the Committee's position on transnational corporations and the rights contained in the Covenant. He therefore proposed that the subject should be discussed between Committee sessions with those delegations that were interested.

30. **Mr. Riedel** said that the core documents needed to be updated regularly to include the information that all the committees required. States parties should provide comprehensive replies to the lists of issues so as to allow the Committee to focus on essential issues during the dialogue. States parties should not just report on the follow-up given to the Committee's recommendations — that information should be reported separately — but on the measures taken to implement the Covenant, article by article, since the previous periodic report.

31. **Mr. Abdel-Moneim** said that the issues raised by the representative of Norway and the representative of Luxembourg came under item 3 of the agenda. He reminded delegations that the States parties were free to present their reports on developments concerning economic, social and cultural rights as they deemed appropriate. The only constraint was the reference in article 2 to the progressive realization of rights. To save the experts time, States parties could include tables of statistics showing changes, in percentages, since the year of submission of the initial report.

*The Committee's role in the efforts to rationalize and strengthen the treaty-body system*

32. **The Chairperson** said that the Committee had played an active part in the efforts that the Office of the High Commissioner for Human Rights had been pursuing for several years to rationalize, make more efficient and strengthen the treaty-body system. The treaty bodies were at the heart of the process, but must draw on the advice of experts from other fields, particularly universities.

33. Therein lay the system's strength and effectiveness, which had resulted in an increase in the workload. Consequently, not everything needed to change: several things

were working well, but more harmonization and complementarity could be achieved in certain areas. The Committee was working tirelessly to improve the wording and conciseness of its concluding observations. Its recommendations were still the product of extensive dialogue with the State party and should on no account be sacrificed on the altar of efficiency.

34. The Committee was planning to assess its working methods by reviewing the decisions it had taken since 1987 with a view to eliminating those no longer applicable and reaffirming those that helped improve its working methods. It was also considering the possibility of: strengthening the role of the country rapporteur in follow-up on reports and recommendations, as well as in the dialogue and country visits; including concluding observations in national strategy notes; and disseminating the Committee's observations more widely.

35. **Mr. Kedzia** said that follow-up was a priority issue for all the committees. The Committee intended to re-examine all the procedures that it had developed in that area over the years, because it had not been fully explored and offered interesting possibilities for coordination and, hence, for cost-cutting.

36. **Ms. Bras Gomes** briefly summarized the discussions that had been held on working methods. To strengthen the implementation of the Covenant, the efficiency of the reporting cycle and follow-up methods would have to be improved. Working methods would also have to be harmonized to strengthen the treaty bodies. With that in mind, and on the basis of its observations on the working methods of other committees, the Committee had discussed five issues: strengthening the role of the country rapporteurs before, during and after the session; getting the most out of the dialogue by making better use of the question-and-answer format; simplifying the list of issues by reducing the number of questions; standardizing phrasing for certain questions that came up regularly; and strengthening follow-up procedures.

37. **The Chairperson**, speaking on behalf of the Committee, thanked the representatives of the States parties for the quality and relevance of their proposals and observations, which the Committee would not fail to take into account in the discussions that it would continue to hold on the agenda items.

*The meeting rose at 5.35 p.m.*